

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DUANE ELLIOTT PRICE, SR.,

Plaintiff,

DECISION AND ORDER

04-CV-6487L

v.

DAN EGERT, et al.,

Defendants.

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Currently pending with the Court is defendants' motion to dismiss (Dkt. #46). Pursuant to the Court's July 5, 2007 Motion Scheduling Order (Dkt. #47), plaintiff's response was due by July 30, 2007. However, no response has been filed to date.

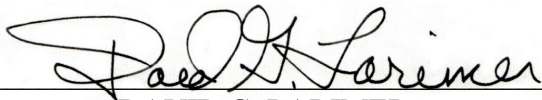
Plaintiff wrote to the Court on or about July 17, 2007, requesting an extension of time to respond to defendants' motion. Due to plaintiff's misdirection of the letter to a magistrate, the Court did not receive it until weeks later. Plaintiff's letter indicates that plaintiff was incarcerated and in protective custody at the Niagara County Jail, and was not scheduled for release until August 9, 2007. Due to plaintiff's incarceration, it is possible that plaintiff did not timely receive a copy of the July 5, 2007 Motion Scheduling Order.

**Accordingly, plaintiff is hereby granted an additional twenty (20) days to file a response to the defendants' motion.** Plaintiff's response to defendants' motion be filed with the Court **on or before October 1, 2007.**

Plaintiff's letter also indicates that his address of record has not changed. If plaintiff has remained incarcerated, becomes incarcerated again, or otherwise changes residence, **plaintiff is ordered to send a formal, written notification to the Court of his new address.** Local Rules of Civil Procedure 5.2(d) provides that "a *pro se* litigant must inform the Court immediately in writing of any change of address. Failure to do so may result in dismissal of the case with prejudice."

If plaintiff does not respond to this Order, the Court will consider dismissing the case pursuant to Local Rule 5.2(d).

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
September 11, 2007.